

**An Ordinance Amending Skagit County Code Title 14 and Title 15 and  
Creating a new Title 16 for Compliance with the Washington State  
Department of Ecology's 2013-2018 Western Washington Phase II  
National Pollution Discharge Elimination System ("NPDES") Permit**

**Whereas** a large portion of the County is subject to a municipal stormwater permit from the Washington State Department of Ecology known as the 2013-2018 Western Washington Phase II National Pollution Discharge Elimination System ("NPDES") Permit;

**Whereas** the permit requires the County to take various steps to control inputs into its municipal stormwater system, including its roadside ditches and other systems that convey stormwater;

**Whereas** the County has long recognized that effective management of stormwater from development is essential for the protection of septic systems, wells, neighboring and downstream property owners, and the environment;

**Whereas** the Planning and Development Services Department (the "Department") and the Public Works Department have worked over the past 24 months to craft an update to the County's drainage code chapter to address the requirements of the permit and reorganize the code to achieve county goals of simplicity, consistency, and clarity in its development regulations;

**Whereas** the Department held two work sessions with the Planning Commission on its progress on January 6 and February 3, 2015, to review the Department's approach to the code update, and provided early drafts to key stakeholders for their review and comment;

**Whereas** the Department released and advertised a proposal for updated stormwater regulations on June 11, 2015, and accepted written comment through July 9, 2015:

**Whereas** the Planning Commission held a public hearing on the proposal on July 7, 2015, and issued a unanimous recommendation in favor, attached as Attachment B, on July 22, 2015;

**Whereas** the Board deliberated on the Planning Commission's recommendations and the Department's recommendations on August 25, 2015, and provided direction for minor changes to the proposed code text;

**Whereas** these final changes are within the scope of the proposal that received public comment;

**Now Therefore, Be It Ordained by the Board of County Commissioners that:**

Section 1. The Board of County Commissioners adopts the Planning Commission's findings of fact.

Section 2. Skagit County Code Titles 14 and 15 are amended, and new Title 16 is created, as shown in Attachment A.

Section 3. This ordinance is effective January 1, 2016.

Witness Our Hands and the Official Seal of Our Office this 8 day of September 2015.



**Board of County Commissioners  
Skagit County, Washington**

Kenneth A. Dahlstedt

Kenneth A. Dahlstedt, Chair

Lisa Janicki

Lisa Janicki, Commissioner

Ron Wesen

Ron Wesen, Commissioner

ATTEST:

Amber Kellogg  
Clerk of the Board

APPROVED AS TO CONTENT:

Dale Pernula  
Dale Pernula, Director  
Planning and Development Services

APPROVED AS TO FORM:

Ryan Walters  
Ryan Walters, Civil Deputy  
Skagit County Prosecutor's Office

## Attachment A

Plain text = existing code with no changes
<del>Strikethrough</del> = existing code to be deleted
<u>Underlined</u> = new code to be added
<del>Double Strikethrough</del> = existing code moved to another location
<u>Double Underline</u> = existing code moved from another location
<i>Italics</i> = instructions to code reviser

### Chapter 14.04 Definitions

#### SCC 14.04.020 Definitions

*The following definitions are added, amended, or deleted in SCC Chapter 14.04.020:*

**Administrative Official:** the Director of Planning and Development Services, provided the Director may authorize certain staff to act on behalf of the Director, for specific decisions under this Title, as long as the staff is acting under the supervision and direction of the Director.

**AKART:** all known, available, and reasonable methods of prevention, control, and treatment. See also the State Water Pollution Control Act, RCW 90.48.010 and 90.48.520.

~~**Basin plan:** a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance for managing surface and stormwater quality and quantity management facilities and drainage features within individual sub-basins.~~

~~**Clean Water Act:** the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), and any subsequent amendments thereto.~~

~~**Closed depressions:** low-lying areas that have no surface outlet, or such a limited surface outlet that in most storm events, the area acts as a retention basin, holding water for infiltration, evaporation or transpiration.~~

~~**Agriculture, commercial:** only applies to Chapter 14.32 SCC, Drainage Ordinance. "Commercial agriculture" means those activities conducted on lands defined in RCW 84.34.020(2), and activities involved in the production of crops or livestock for retail or wholesale trade. An activity ceases to be considered commercial agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than 5 years, unless the idle land is registered in a Federal or State soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.~~

~~**Comprehensive Drainage Plan:** a detailed analysis, adopted by the Board, for a drainage basin which assesses the capabilities and needs for runoff accommodation due to various combinations of development, land use, structural and nonstructural management alternatives. The plan recommends the form, location, and extent of stormwater quantity and quality control measures that would satisfy legal constraints, water quality standards, and community standards, and identifies the institutional and funding requirements for plan implementation.~~

**County's NPDES Permit:** the Western Washington Phase II Municipal Stormwater Permit, issued by the Washington State Department of Ecology pursuant to the federal Clean Water Act.

~~**Critical drainage area:** those areas designated in SCC 14.32.110, Critical drainage areas, which have a high potential for stormwater quantity or quality problems.~~

~~**Design storm event:** a theoretical storm event of a given frequency interval and duration used in the analysis and design of a stormwater and drainage facility.~~

~~**Developed site:** the condition of the development site following completion of construction of the development including all approved phases of construction.~~

~~**Diversion:** the routing of stormwater to other than its natural discharge location.~~

~~**Drainage feature:** any natural or manmade structure, facility, conveyance, or topographic feature which has the potential to concentrate, convey, detain, retain, infiltrate, or affect the flow rate of stormwater runoff.~~

~~**Grubbing:** the removal of vegetative matter from underground such as sod, stumps, roots, buried logs, or other debris, and shall include the incidental removal of topsoil to a depth not exceeding 12 inches.~~

~~**Hard surface:** an impervious surface, a permeable pavement, or a vegetated roof.~~

~~Hydrograph method: a method of estimating a hydrograph using a mathematical simulation. Commonly accepted hydrograph methods include the National Resource Conservation Service TR-55 Method and the Santa Barbara Urban Hydrograph Method.~~

~~**Illicit discharge:** any direct or indirect non-stormwater discharge to the stormwater system, except as expressly allowed in SCC 14.32.090.~~

~~**Impervious surface:** a hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. Impervious surface shall also include a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include but are not limited to roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted subgrade, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces. a non-vegetated surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packen earthen materials, and oiled, macadam or other surfaces which similarly impeded the natural flow of stormwater.~~

~~**Illicit discharge:** any direct or indirect non-stormwater discharge to the stormwater system, except as expressly allowed in SCC 14.32.090.~~

~~**Land disturbing activity:** any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include but are not limited to demolition, construction, paving, clearing, grading, and grubbing. any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to clearing, grading, filling and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered land disturbing activity. Vegetation maintenance practices, including landscape~~

maintenance and gardening, are not considered land disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

~~**Large development:** any new development or any redevelopment activity that includes: (1) The creation or cumulative addition of 5,000 square feet or greater of impervious surface area from the pre-development conditions; or (2) Land disturbing activity of 1 acre or greater; or (3) Grading involving the movement of 500 cubic yards or more of material.~~

**Low-impact development (LID):** a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

**Native vegetation:** ~~plant species which are indigenous to the area.~~ pursuant to the NPDES Permit, vegetation composed of plant species other than noxious weeds that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to occur naturally on the site. Examples include trees such as Douglas Fir, western hemlock, western red cedar, alder, big-leaf maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.

~~**Non-stormwater discharge:** any discharge to the stormwater system that is not composed entirely of stormwater.~~

**NPDES Permit Area:** The area of unincorporated Skagit County defined by the Department of Ecology's Phase II Western Washington Municipal Stormwater Permit (modified January 16, 2015), issued pursuant to the federal National Pollutant Discharge Elimination System.

~~**Operation and maintenance manual:** a written manual, prepared by a professional engineer, that provides a description of operation and maintenance procedures for specific stormwater control facilities for use by operation and maintenance personnel.~~

~~**Peak discharge:** the maximum surface water runoff rate determined for the design storm.~~

~~**Permanent stormwater control plan (PSCP):** a plan which includes permanent BMPs for the control of pollution from stormwater runoff after construction and/or land disturbing activity has been completed.~~

**Permeable pavement:** Pervious concrete, porous asphalt, permeable pavers or other forms of pervious or porous paving material intended to allow passage of water through the pavement section.

**Pollutant:** anything which causes or contributes to pollution, as defined under applicable State and Federal laws, rules, and regulations.

**Pollution:** contamination or other alteration of the physical, chemical, or biological properties of waters of the State. Pollution includes, but is not limited to, change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the State as will or is likely to create a nuisance or render such waters harmful.

~~**Potable water:** water which meets the quality standards for human drinking purposes.~~

**Qualified professional:** a person with experience and training in the applicable field or critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geology or related field, and 2 years of related work experience.

(1) A qualified professional for watercourses, wetlands, and wildlife habitat conservation areas must have a degree in biology or related field and relevant professional experience in functional assessment and mitigation techniques.

(2) A qualified professional for preparing geotechnical reports and geotechnical design recommendations must be a professional geologist or geotechnical engineer, licensed in the State of Washington.

(3) A qualified professional for critical aquifer recharge areas must be a hydrogeologist or professional engineer, licensed in the State of Washington, who is trained and qualified to analyze geologic, hydrologic, and groundwater flow systems.

(4) A qualified professional for stormwater management must be a professional engineer, licensed in the State of Washington, who is trained and qualified to design stormwater facilities.

~~**Redevelopment:** any land-disturbing activity occurring on existing developed property.~~

~~**Retention facilities:** drainage facilities designed to store runoff for gradual release by evaporation, plant transpiration, or infiltration into the soil. Retention facilities shall include all such drainage facilities designed so that none of the runoff entering the facility will be discharged as surface water. Retention facilities shall include all appurtenances associated with their designed function, maintenance, and security.~~

**Retention/detention facility:** a type of drainage facility designed to either hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration onto the ground; or to hold surface and stormwater runoff for a short period of time and then release it to the surface and stormwater management system.

~~**Site development activity:** the alteration of topography, clearing, paving, grading, construction, alteration of stormwater and drainage systems, site preparation, or other activity commonly associated with site development. Site development activity and/or permit includes those activities listed in SCC 14.32.040(1).~~

~~**Small development:** any new development or redevelopment activity that includes: (1) The creation or addition of less than 5,000 square feet of new impervious surface area; (2) Land-disturbing activity of less than 1 acre; and (3) Grading involving the movement of less than 500 cubic yards of material.~~

~~**Soils investigation report:** a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils investigation report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.~~

~~**Source control BMP:** a best management practice (BMP) that is intended to prevent pollutants from entering stormwater. Examples include, but are not limited to, erosion control practices, maintenance of stormwater and drainage facilities, constructing roofs over storage and working areas, and directing wash water and similar discharges to the sanitary sewer or a dead-end sump.~~

~~**Stabilized:** The application of BMPs or other approved mitigation plan sufficient to protect soil from the erosive forces of raindrop impact and flowing water. Examples include, but are not limited to, vegetative establishment, mulching, plastic covering, the early application of gravel base, and outlet and channel protection.~~

**Stormwater** means runoff during and following precipitation and snowmelt events, including surface runoff, drainage, or interflow.

**Stormwater Design-Management Manual:** ~~the Stormwater Management Manual for Western Washington or a subsequent manual adopted by Ecology~~ the County's manual for design of stormwater facilities, as adopted in SCC 14.32.040.

**Stormwater facility:** a component of a manmade drainage feature or features designed or constructed to perform a particular function or multiple functions. These include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, wetponds, constructed wetlands, infiltration devices, catch basins, ~~and~~ sediment basins, and low-impact development facilities. ~~Stormwater facilities shall not~~ "Stormwater facility" does not include building gutters, downspouts, and drains serving ~~1~~ only one single-family residence.

**Stormwater Pollution Prevention Plan (SWPPP):** a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

**Stormwater quality control:** the control of the introduction of pollutants into stormwater and the process of separating pollutants from stormwater. Stormwater quality control facilities include, but are not limited to, source controls, biofiltration/biofilter facilities, wetponds, wetland forebays, constructed wetlands, and erosion and sedimentation control facilities.

**Stormwater quantity control:** the control of the rate and/or volume of stormwater released from a development site. Stormwater quantity control facilities include, but are not limited to, detention and retention facilities.

**Stormwater system:** all natural and manmade systems that function together or independently to collect, store, purify, discharge, and convey stormwater. Included are all stormwater and drainage facilities as well as natural systems such as streams and creeks and all natural systems which convey, store, infiltrate, or divert stormwater.

~~**Technical deviation:** permission granted by the Administrative Official to deviate from the provisions of the Stormwater Design Manual (when technical analysis can support it).~~

~~**Treated:** water quality treatment in accordance with current adopted Skagit County standards.~~

~~**Water quality design storm event:** the water quality design storm used for the design of water quality treatment facilities shall be the 6-month frequency, 24-hour duration storm event. In that the precipitation data from isopleth maps is not available for the 6-month frequency, 24-hour duration storm event, the design engineer can use 64% of the 2-year, 24-hour precipitation as equivalent to the 6-month, 24-hour precipitation.~~

~~**Water quality sensitive area:** areas where changes in water quality are of particular concern to the natural environment or human health. These include, but are not limited to, lakes groundwater management areas, groundwater special protection areas, sole source aquifers, critical aquifer recharge areas, wellhead protection areas, closed depressions, fish spawning and rearing habitat, wildlife habitat, and shellfish protection areas.~~

~~**Wetpond:** a stormwater basin that is intended to maintain a permanent pool of water sized in accordance with current County standards.~~

## Chapter 14.10 Variances

### 14.10.020 Types of Variances

Variances shall generally be 1 of 3 types:

- (1) Administrative Variances. The following variances shall be processed as a Level I administrative decision pursuant to the provisions of Chapter 14.06 SCC by the respective department indicated: Appeals of administrative variances shall be to the Hearing Examiner as provided in Chapter 14.06 SCC, except for alternatives to public works standards of Chapter 14.36 SCC.
  - (a) Alternatives to the Public Works Standards of Chapter 14.36 SCC shall be decided administratively by the Public Works Department, pursuant to Section 2.10 of the Skagit County Road Standards Manual.
  - (b) Variances to the agricultural siting criteria of SCC 14.16.400 and 14.16.860 shall be decided administratively by Planning and Development Services.
  - (c) Variances allowed in SCC 14.16.800(1)(d) related to parking requirements, SCC 14.16.810(4) related to setback reductions and SCC 14.16.830(5)(i) related to landscaping requirements shall be decided administratively by Planning and Development Services.
  - (d) Variances to SCC 14.16.340(5), minimum density for short plats, may be allowed in cases where previously developed property or property with critical areas constraints precludes development at the required densities. Such variances shall be decided administratively by Planning and Development Services.
  - (e) ~~Technical deviations~~ Adjustments or exceptions from the provisions of SCC Chapter 14.32 ~~SCC shall be~~ are decided administratively by Planning and Development Services ~~as outlined in SCC 14.32.030(5)~~ using the process and criteria in SCC 14.32.040(5) and not SCC Chapter 14.10.

~~Appeals of administrative variances shall be to the Hearing Examiner as provided in Chapter 14.06 SCC, except for alternatives to public works standards of Chapter 14.36 SCC.~~
  - (f) Variances to standard critical area buffer widths (25% to 50%) pursuant to SCC 14.24.140(1)(a) shall be decided administratively by Planning and Development Services.
- (2) *No change.*
- (3) *No change.*

## Chapter 14.16 Zoning

### SCC 14.16.800 Parking

- (1) General Requirements.



~~(1)(a) General Requirements.~~ Off-street parking in conjunction with all land and building uses established after the enactment of this Title shall be provided prior to the issuance of a certificate of occupancy as herein prescribed.

~~(a)(b)~~ Off-street parking for other than residential use shall be either on the same lot or within 200 feet of the building it is intended to serve, except for those cases where parking plans have been developed for a specific area.

~~(b)(c)~~ Residential off-street parking space shall consist of a driveway or garage or a combination thereof, and shall be located on the lot they are intended to serve.

~~(c)~~ In uses not specifically mentioned herein, off-street parking requirements shall be determined by Planning and Development Services based on the anticipated parking demand.

~~(d)~~ An applicant may request a modification of the minimum required number of parking spaces by demonstrating that parking demand can be met with a reduced parking requirement. In such cases, the Administrative Official may approve a reduction of up to 50% of the minimum required number of spaces as an administrative decision. In areas where few cars are anticipated (such as saltwater islands not served by ferry), the parking requirement may be eliminated.

~~(e)(d)~~ Any area or number of parking spaces once designated as required off-street parking shall not be reduced to less than the required number of spaces for a similar new building or new use, nor changed to any other use unless and until equal parking facilities are provided elsewhere which conform to the requirements of this Section.

~~(f)(e)~~ Two or more buildings or uses may collectively provide the required off-street parking, in which case, the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately. If the uses, structures, or parcels are under separate ownership, a deed, lease, contract or other appropriate written document must evidence the right to joint use of the parking space.

~~(f)~~ Minimum size ~~for of a standard~~ parking space ~~shall be is~~ 8 1/2 feet by 17 feet. Minimum size for a compact parking space is 8 feet by 16 feet.

~~(g)~~ When parking standards require ten or more parking spaces, up to 40 percent of the off-street parking spaces required by this chapter may be designated for compact cars. Compact car parking stalls must be individually marked on the parking plan and must be clearly signed for use by compact cars only.

~~(g)(h)~~ Handicapped parking spaces shall be designated and constructed in accordance with WAC 51-30-1107 and 51-30-1108.

(2) Minimum Number of Spaces Required.

~~(2)(a)~~ The minimum number of off-street parking shall be determined in accordance with the following table:

Use	Minimum Number of Spaces Required
1. Single-Family Dwelling Unit Detached/Attached	2 per unit

Use	Minimum Number of Spaces Required
2. Single-Family Dwelling Unit Detached/Attached with Accessory Dwelling Unit	3 total for combination of main unit and accessory dwelling unit
3. Two-Family Dwelling Units (Duplex)	2 per each dwelling unit
4. Townhome Dwelling Unit	2 per each dwelling unit
5. Bed and Breakfast	1 per guest room + 2 for residence
6. Hotel/Motel	1 per bedroom
7. Family Day Care Provider	2 per facility
8. Day Care Center	2 per facility + 1 per 20 children
9. Art Galleries and Studios	1 per 1,000 square feet
10. Professional Offices/Services	1 per 300 square feet
11. Marinas	1 per moorage slip
12. Indoor Recreation/Cultural	1 per 300 square feet
13. Primary/Junior High Schools	1 per classroom + 1 per 50 students
14. High Schools	1 per classroom + 1 per 10 students
15. Retail Stores	1 per 300 square feet
16. Gasoline Service Stations (without retail stores)	5 + 1 per service bay
17. Restaurants	1 per 75 square feet in dining or lounge areas
18. Manufacturing Uses	1 per 1,000 square feet
19. Warehousing	1 per 2,500 square feet
<a href="#">20. Other uses not specified above</a>	<a href="#">As determined by Administrative Official based on anticipated parking demand</a>

[\(b\) An applicant may request a modification of the minimum required number of parking spaces by demonstrating that parking demand can be met with a reduced parking requirement. In such cases, the Administrative Official may approve a reduction of up to 50% of the minimum required number of spaces as an administrative decision. In areas where few cars are anticipated \(such as saltwater islands not served by ferry\), the parking requirement may be eliminated.](#)

[\(3\) Maximum Spaces Allowed. Parking for a specific use is limited to no more than 200 percent of the minimum parking required in Subsection \(2\)\(a\), above, except as provided below.](#)

[\(a\) Restaurants and other prepared food uses may have up to 300 percent of the minimum parking required by Section 14.16.800\(2\).](#)

- (b) The Administrative Official may allow additional off-street parking spaces above the maximum amounts stated above if warranted by a traffic study or by recommended guidelines of the Institute of Transportation Engineers.
- (c) Parking spaces provided in a parking garage, or parking spaces provided using permeable pavement, are exempt from maximum parking limits.

### Section 14.16.830 Landscaping requirements

- (1) Purpose and Intent. *No change.*
- (2) Applicability.
  - (a) An approved landscape plan is required for any change of use, new or replacement commercial, industrial or institutional building, special use, or subdivision application (as required by Chapter 14.18 SCC).
  - (b) Plans for projects including 2,000 square feet or more of landscaping over the entire development area shall be prepared by a licensed landscape architect or Washington State certified nurseryman.
  - (c) Where a Low-Impact Development stormwater facility is required by SCC Chapter 14.32, the applicant may use that facility to satisfy other landscaping requirements so long as the purpose and intent of required landscaping is satisfied and the landscaping does not disrupt the function of LID stormwater facilities.
- (3) Application Procedures. *No change.*
- (4) Types, Amounts, and Locations of Landscaping Required. *No change.*
- (5) Landscaping thresholds for remodeled, repaired, or expanded buildings/uses. *No change.*
- (6) General Standards. *No change.*

## Chapter 14.18 Land Divisions

### 14.18.100 Preliminary subdivisions.

*No change.*

- (1) Application Requirements for Preliminary Subdivisions.
  - (a) *No change.*
  - (b) Application requirements to be submitted:
    - (i) - (vii) *No change.*
    - (ix) A drainage stormwater site plan ~~in conformance with the requirements contained in per SCC~~ Chapter 14.32-SCC;
    - (x) – (xiii) *No change.*
  - (c) *No change.*
- (2) *No change.*
- (3) *No change.*

### 14.18.200 Final subdivisions.

- (1) Purpose. *No change.*
- (2) Application Requirements for Final Subdivisions. *No change.*
- (3) Review Process. *No change.*

- (4) Final Subdivision Approval Requirements. Prior to approval of the final subdivision, the following requirements shall be met:
  - (a) - (d) *No change.*
  - (e) The design and construction of drainage facilities ~~shall be in compliance with the current Skagit County Drainage Ordinance, Chapter 14.32 SCC~~ must comply with SCC Chapter 14.32 Stormwater Management, and any easement for inspection or maintenance required by that Chapter must be provided to Skagit County.
  - (f) - (i) *No change.*
- (5) - (9) *No change.*

**14.18.500 Binding site plans.**

- (1) Purpose. *No change.*
- (2) General Provisions. *No change.*
- (3) Complete Application.
  - (a) *No change.*
  - (b) *No change.*
  - (c) A complete application for binding site plan application shall consist of:
    - (i) *No change.*
    - (ii) *No change.*
    - (iii) *No change.*
    - (iv) A ~~drainage-stormwater site~~ plan ~~subject to the requirements of~~ per SCC Chapter 14.32 ~~SCC, Drainage Ordinance.~~
    - (v) - (xii) *No change.*
  - (d) *No change.*
- (4) - (9) *No change.*

## Chapter 14.32 Stormwater Management

SCC Chapter 14.32 Drainage Ordinance is renamed Stormwater Management and amended to read as follows:

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### 14.32.010 Policy.

- (1) Purpose. Washington State Law mandates that stormwater discharge resulting from development activities and pollution-generating activities be controlled and treated to provide available and reasonable methods of erosion control, flood control, and water quality treatment. To help protect adjacent landowners from downstream flooding, erosion, and pollution, Skagit County has adopted the following requirements for both temporary and long-term stormwater management. The purpose of this Chapter is to set out the authority, regulatory requirements, submittal requirements, and procedures for stormwater drainage design, review, approval, construction, maintenance, and management in Skagit County.
- (2) Goals of LID. The goals of Low-Impact Development (LID) are to conserve and use existing natural site features, to integrate distributed, small-scale stormwater controls, and to help prevent measurable harm to streams, lakes, wetlands, and other natural aquatic systems from development by maintaining a more hydrologically functional landscape. This Chapter accomplishes the following goals:
  - (a) Manage stormwater through a land development strategy that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to mimic predevelopment hydrologic conditions;
  - (b) Encourage creative and coordinated site planning, the conservation of natural conditions and features, the use of appropriate technologies and techniques, and the efficient layout of streets, utility networks and other public improvements;
  - (c) Reduce hard surfaces and impervious surfaces; and
  - (d) Preserve or restore native vegetation.

- (3) Authority. This Chapter is adopted pursuant to the authority granted to Skagit County in:
  - (a) RCW Chapter 36.70, Planning Enabling Act;
  - (b) RCW Chapter 36.70A, Growth Management Act;
  - (c) RCW Chapter 90.48, Water Pollution Control.
- (4) Administration. The Administrative Official administers this Chapter and has the authority to develop and implement procedures to administer and enforce this Chapter. In all cases involving technical requirements and review, the Administrative Official should give due consideration and regard to the advice and recommendations of County technical staff.

#### **14.32.020 Applicability.**

- (1) No site development activity requiring review under this Chapter, including land clearing, grading, or other construction activity may occur until the proposed activity has been reviewed and any required development permit has been issued. No site development activity may continue without an appropriate development permit.
- (2) Sections .030-.080 of this Chapter apply to any activity within unincorporated Skagit County identified below:
  - (a) “New Development,” meaning land disturbing activities, including Class IV General Forest Practices that are conversions from timber land to other uses; structural development, including construction or installation of a building or other structure; creation of hard surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in RCW Chapter 58.17. Projects meeting the definition of redevelopment are not considered New Development.
  - (b) “Redevelopment,” meaning, on a site that is already substantially developed (i.e., has 35% or more of existing hard surface coverage), the creation or addition of hard surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of hard surface that is not part of a routine maintenance activity; and land disturbing activities.
  - (c) Any activity requiring a grading permit per SCC Chapter 15.04.
- (3) Exemptions. Consistent with Appendix 1, Section 1 of the County’s NPDES Permit, the following activities are exempt from this Chapter:
  - (a) Forest practices. Forest practices regulated under Title 222 WAC, except for Class IV General forest practices that are conversions from timberland to other uses, are exempt from the provisions of the minimum requirements.
  - (b) Commercial agriculture. Commercial agriculture practices involving production of crops or livestock as described in the County’s NPDES Permit, Appendix 1, Section 1. However, the conversion from timberland to agriculture, and the construction of impervious surfaces are not exempt.
  - (c) Oil and gas field activities or operations, as described in the County’s NPDES Permit, Appendix 1, Section 1.

- (d) Pavement maintenance, as described in the County's NPDES Permit, Appendix 1, Section 1.
- (e) Underground utility projects. Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics are only subject to Minimum Requirement #2, Construction Stormwater Pollution Prevention.

**14.32.030 Application requirements.**

- (1) Basic requirement. All applications require a stormwater site plan consistent with this section.
  - (a) All stormwater site plans must include a Stormwater Pollution Prevention Plan (MR2), including provisions for erosion and sediment control.
  - (b) When a Stormwater Site Plan (MR1) is required by SCC 14.32.040, the stormwater site plan fulfills this application requirement.
- (2) Inside the NPDES Permit Area: The applicant must use the site assessment process in Chapter 2 of the Low Impact Development Technical Guidance Manual for Puget Sound (Puget Sound Partnership and WSU Extension, 2012) to develop the stormwater site plan. The site assessment provides the baseline information necessary to design strategies that preserve areas most appropriate to evaporate, transpire, and infiltrate stormwater and achieve the requirements of the Stormwater Management Manual and this Chapter.
- (3) Outside the NPDES Permit Area:
  - (a) A stormwater site plan must demonstrate compliance with the requirements of SCC 14.32.040.
  - (b) The stormwater site plan must be prepared by a qualified professional and must include an offsite analysis only when the application includes any of the following:
    - (i) creation or cumulative addition  $\geq 5000$  sq. ft. of impervious surface area from the pre-development conditions;
    - (ii) land-disturbing activity  $\geq 1$  acre;
    - (iii) grading  $\geq 500$  cu yards;
    - (iv) any improvements within County right of way for which the County will ultimately assume responsibility for maintenance.
  - (c) Off-Site Analysis. Any offsite analysis must be consistent with the methods described in the Stormwater Management Manual.
  - (d) Geotechnical Analysis. The stormwater site plan must include a geotechnical analysis only when:
    - (i) grading or the construction of retention facilities, detention facilities, or other stormwater and drainage facilities is proposed within 200 feet of slopes steeper than 40%; or
    - (ii) the Administrative Official deems that the proposed construction poses a potential hazard due to its proximity to a geologically hazardous area or Category I aquifer recharge area.



- (e) Soils Analysis. The stormwater site plan must include a soils analysis only when the Administrative Official deems that existing soils maps of the project site are not of sufficient resolution to allow proper engineering analysis.
- (4) Security. The County may require liability insurance and a financial security to ensure performance of the requirements of this Chapter.

#### **14.32.040 Stormwater Management Manual**

- (1) Skagit County adopts Ecology's 2012 Stormwater Management Manual for Western Washington, as amended in December 2014, as the Stormwater Management Manual for the entirety of unincorporated Skagit County.
- (2) Inside the NPDES Permit Area: Skagit County adopts the Thresholds, Definitions, Minimum Requirements and Exceptions, Adjustment and Variance Criteria found in Appendix I of the County's NPDES Permit. Thresholds identified in this Chapter control only if they are lower than those required by Appendix I.
- (3) Outside the NPDES Permit Area:
  - (a) Outside of the NPDES Permit Area, the Stormwater Management Manual's Minimum Requirements are modified as provided in the table below.

Table 14.32.040-1

Minimum Requirement (MR)	When Required, By Land Use Intensity		
	Low	Medium	High
MR1 Stormwater Site Plan	≥ 7,000 sq ft of new plus replaced hard surface, or ≥ 14,000 sq ft land disturbing activity	≥ 4,000 sq ft of new plus replaced hard surface, or ≥ 14,000 sq ft land disturbing activity	per manual
MR2 Construction SWPPP	always required		
MR3 Source Control	not required	≥ 4,000 sq ft of new plus replaced hard surface, or ≥ 14,000 sq ft land disturbing activity	per manual
MR4 Preserve Natural Drainage	≥ 7,000 sq ft of new plus replaced hard surface, or ≥ 14,000 sq ft land disturbing activity		per manual
MR5 Onsite Stormwater Management	not required		per manual
MR6 Treatment	not required		per manual
MR7 Flow Control	not required		per manual
MR8 Wetlands Protection	≥ 7,000 sq ft of new plus replaced hard surface, or ≥ 14,000 sq ft land disturbing activity		per manual
MR9 O&M	required only if stormwater facility installed		per manual

(b) The Land Use Intensities in the table above have the following meanings:

Table 14.32.040-2

Land Use Intensity	Meaning
Low	Single-family residential and accessory uses on parcels of one acre or larger; construction of agricultural buildings in Ag-NRL; seasonal roadside stands; roads (other than those exempt as pavement maintenance)
Medium	Single-family residential and accessory uses on parcels smaller than one acre; land divisions into four or fewer lots; minor utility developments; trails and trailheads
High	All other uses, including all commercial, industrial, institutional, and urban or multifamily residential uses; land divisions into more than four lots; all uses on parcels bisected by the NPDES Permit Area boundary; any project that results in new plus replaced hard surface greater than or equal to 20,000 sq ft, or 1.5 acres of vegetation-to-lawn conversion, or five acres of vegetation-to-pasture conversion.

- (4) Experimental Best Management Practices (BMPs). In those instances where the Stormwater Management Manual does not contain appropriate BMPs, experimental BMPs may be considered. In an effort to improve stormwater quality technology, experimental BMPs are encouraged as a means of solving problems in a manner not addressed by the Stormwater Management Manual. The Administrative Official must approve experimental BMPs and may require that the performance of experimental BMPs be monitored to document their effectiveness for future use.
- (5) Adjustments and Exceptions.
  - (a) The Administrative Official may grant an adjustment to the application of the Stormwater Management Manual and its Minimum Requirements prior to permit approval and construction consistent with the criteria in the Stormwater Management Manual Volume I, Section 2.7 (Adjustments).
  - (b) The Administrative Official may grant an exception from this Chapter or the application of the Stormwater Management Manual and its Minimum Requirements prior to permit approval and construction when consistent with the criteria in the Stormwater Management Manual Volume I, Section 2.8 (Exceptions/Variations). The Administrative Official must retain records, including the written findings of fact, of all exceptions from the Minimum Requirements.
  - (c) A request for an adjustment or exception must adequately describe the justification for relief and is processed as a Level I decision under SCC 14.06.110.
- (6) Critical drainage areas. In order to mitigate or eliminate potential stormwater-related impacts on critical drainage areas, the Administrative Official may require additional stormwater improvements in the following areas:
  - (a) all areas designated as critical areas under SCC Chapter 14.24;
  - (b) all lands within 200 feet of the ordinary high water mark of waterbodies possessing fish spawning and rearing habitat for anadromous and resident fish species, as designated by the State Department of Fish and Wildlife;
  - (c) any lands that drain to a natural feature that is a closed depression, i.e., a low-lying area that has no surface outlet, or such a limited surface outlet that in most storm events, the area acts as a retention basin, holding water for infiltration, evaporation or transpiration;
  - (d) any lands that are established by law as fish or shellfish protection areas; and
  - (e) any lands determined by the Administrative Official to have a high potential for drainage and water quality problems and/or are sensitive to the effects of construction or development.

**14.32.050 Reserved.**

**14.32.060 Erosion and sediment control.**

- (1) All development must control erosion and sedimentation during construction to permanently stabilize soil exposed during construction and to comply with the requirements of this Section.

In addition to the requirements of the Stormwater Management Manual, development must do the following:

- (a) Stabilization of exposed soils. At all times of the year, sufficient materials, equipment, and labor must be readily available to stabilize and prevent erosion from all exposed soils and must stabilize soils before any forecasted rain event.
- (b) Delineation of clearing and easement limits. Clearing limits, setbacks, buffers, and sensitive or Critical Areas such as steep slopes, wetlands, wellhead protection areas and riparian corridors shall be clearly marked in the field by the applicant's surveyors or critical areas consultant and inspected by County staff (or where appropriate, by the applicant's critical areas consultant) prior to commencement of land clearing activities.
- (c) Construction access routes. Wherever construction vehicle access routes intersect paved roads, provisions must be made to minimize the transport of sediment (mud) onto the paved road by use of appropriate BMPs such as a Stabilized Construction Entrance. If sediment is transported onto a road surface, the roads must be cleaned thoroughly, as a minimum, at the end of each day. Sediment must be removed from roads by shoveling or sweeping and be transported to a controlled sediment disposal area. Street washing is allowed only after sediment is removed in this manner.
- (d) Dewatering construction sites. Dewatering devices must discharge into an appropriate sediment trap or pond designed to accept such a discharge, preceded by adequate energy dissipation, prior to runoff leaving the site.
- (e) Control of pollutants other than sediment. All pollutants other than sediment that occur on-site during construction must be handled and legally disposed of in a manner that does not cause contamination of surface waters. Pollutants of concern include, but are not limited to, fuels, lubricants, solvents, concrete by-products, and construction materials.

#### **14.32.070 Low-Impact Development (LID) techniques and facilities.**

- (1) When Allowed. To minimize the stormwater impacts of development, the Low-Impact Development (LID) techniques and facilities identified in the Low Impact Development Technical Guidance Manual for Puget Sound (Puget Sound Partnership and WSU Extension, 2012) and this chapter are allowed, where feasible, anywhere in unincorporated Skagit County.
  - (a) Permeable pavement may be used in place of regular pavement to meet applicable LID requirements where feasible. The Administrative Official must review and approve the utilization of alternative surfacing methods for compliance with other applicable regulations and development standards.
  - (b) Bioretention swales with compost-amended soils may be used, with the approval of the Administrative Official, within a right-of-way, within an easement dedicated to Skagit County adjacent to the public right-of-way, or in islands created by loop roadways.
  - (c) In the event of a conflict between this Section and other development regulations, the provisions of this Section apply.
- (2) When Required.

- (a) LID techniques and facilities are required within the NPDES Permit Area where the NPDES Permit thresholds are exceeded and where feasible. The applicant must use the BMPs identified in the Stormwater Management Manual as feasible for the site conditions. The Stormwater Management Manual provides criteria for determining feasibility of BMPs; the Administrative Official has authority to determine whether specific BMPs are feasible.
  - (b) Within the NPDES Permit Area, projects subject to Minimum Requirements #1 to #9 in Appendix 1 of the NPDES Permit must comply with the following:
    - (i) After the project is complete, there may not be a net increase in impervious surface above the limit on the permit, plat, or site plan without approval from the Administrative Official.
    - (ii) For subdivisions, the maximum impervious surfaces allowed for each lot must be added to the face of the plat.
    - (iii) For all other development, the maximum impervious surface allowed for the development must be added to the face of the final, approved site plan.
  - (c) Within the NPDES Permit Area, applicants must locate and design all buildings, streets and pathways, parking areas, and utility easements to promote public safety, ensure compatibility of uses, minimize effective impervious surface, preserve native vegetation, and complement predevelopment site characteristics such as topography, soils, hydrology, and other natural features.
- (3) General design techniques.
- (a) Applicants should consider limiting clearing and grading to the minimum necessary for construction of permitted uses and associated utilities.
  - (b) Applicants should consider limiting lawn areas, driveways, and roads and locate them in a manner that results in the least disruption to the topography and native vegetation on the site.
  - (c) Applicants should consider clustering of lots, dwelling units, or building structures during the conceptual planning stage to preserve open space, reduce total impervious surface area, and minimize development impacts on critical areas and associated buffers.
- (4) Maintenance. A maintenance plan consistent with SCC 14.32.100 is required.
- (5) Native vegetation.
- (a) To use existing vegetation as native vegetation for stormwater dispersion, the vegetation must be characterized by a minimum of one mature evergreen or deciduous tree per 400 square feet of area. Areas not meeting this standard must be planted with the following:
    - (i) Groundcover: 4"-container plants at 1 per 125 square feet and native groundcover seed mix at 1 pound per acre;
    - (ii) Understory Shrubs (evergreen and/or deciduous): 1-gallon plants at 1 per 300 square feet; and

- (iii) Canopy Trees: 2-gallon plants at 1 per 600 square feet.
- (b) The duff layer and native topsoil on a project site should be retained in an undisturbed state to the maximum extent practicable to preserve the natural stormwater holding capacity.
- (c) Where native vegetation is used to achieve Minimum Requirements 6 or 7, only the following is allowed:
  - (i) permeable pedestrian trails;
  - (ii) surface water restoration projects;
  - (iii) passive recreation;
  - (iv) removal of invasive species;
  - (v) planting of native vegetation;
  - (vi) amendment of disturbed soils consistent with all applicable regulations.
- (d) Where native vegetation is used to achieve Minimum Requirements 6 or 7, the applicant must establish one or more of the following permanent protective mechanisms to ensure that native vegetation is retained:
  - (i) a protective easement dedicated to the County;
  - (ii) a separate non-building tract owned in common by all lots within the subdivision;
  - (iii) restrictions on the future use of the area recorded on the face of the final plat;
  - (iv) an alternative permanent protective mechanism approved by the Administrative Official.

**14.32.080 Stormwater conveyance.**

- (1) Generally.
  - (a) All proposed developments must provide onsite stormwater conveyance with sufficient capacity to convey without flooding or otherwise damaging existing or proposed structures, consistent with the Stormwater Management Manual.
  - (b) Estimation of peak stormwater runoff rates used in the design of stormwater conveyance facilities must use the Rational Method, Santa Barbara Urban Hydrograph Method, Western Washington Hydrology Model, or another method, accepted by the Administrative Official, of estimating a hydrograph using a mathematical simulation.
  - (c) Runoff may not discharge directly onto the surface of a public road.
  - (d) Runoff and infiltration must be directed away from septic drain fields.
  - (e) Runoff from impervious surfaces, roof drains, and yard drains must be directed so as not to adversely affect adjacent properties.
  - (f) Runoff from development may not cause a significant adverse impact to down-gradient properties.

- (2) Easements, Tracts, and Covenants.
  - (a) Drainage easements must be provided in a proposed development for all stormwater and drainage conveyance systems that are not located in public rights-of-way or tracts and must be granted to the parties responsible for providing ongoing maintenance of the systems. Drainage easements through non-drainage structures are prohibited.
  - (b) Wording to this effect must appear on the face of all final plats, and must be contained in any covenants required for a development.
- (3) Wetlands. Stormwater discharges to wetlands are allowed only when consistent with the Stormwater Management Manual, especially Minimum Requirement #8 and Appendix I-D.
- (4) Basin Planning. A watershed-based Basin Plan that includes all implementing regulations and procedures (e.g., land use management adopted by ordinance for managing surface and stormwater quality and quantity management facilities and drainage features within individual sub-basins), may be used to develop requirements for source control, stormwater treatment, stream bank erosion control, wetlands, and water quality sensitive areas. A Basin Plan adopted by the Board of County Commissioners may be used to modify any or all of the Minimum Requirements for stormwater quantity or quality control addressed in this Chapter. Such modifications will be accepted provided that the level of protection for surface or ground water achieved by the Basin Plan will equal or exceed that which would otherwise be achieved by implementation of the provisions of this Chapter in the absence of a Basin Plan. Basin plans must evaluate and include as necessary retrofitting of BMPs for existing development or redevelopment in order to achieve watershed-wide pollution-reduction goals.
- (5) Regional Facilities. When the Administrative Official has determined the public would benefit by the establishment of a regional stormwater facility that would serve as an alternative to the construction of separate on-site drainage facilities, the Administrative Official may recommend to the Board that a regional stormwater facility be constructed. This regional facility would serve more than one development in providing stormwater quantity and/or quality control. All future developments constructed on lands designated by the Board to be served by the regional facility must, at the time of issuance of any permit for a development, be required to contribute a fair share to the cost of land purchase, design, and construction of said regional facility. In the event that a proposed regional stormwater facility is not yet in operation at the time of completion of construction of a development that is to be served by said regional facility, the applicant for said development shall be required to provide temporary stormwater quantity and quality controls. Temporary quantity and quality controls may be constructed in temporary easements rather than in separate tracts.

**14.32.090 County acceptance of stormwater facilities.**

- (1) Skagit County may, at the Administrative Official's sole discretion, accept stormwater facilities for maintenance. Only those that meet the following conditions will be considered for acceptance:
  - (a) For residential subdivisions, improvements have been completed on at least 80% of the lots, unless waived by the Administrative Official;
  - (b) The facility has been inspected by the County and accepted by the Administrative Official and have been in satisfactory operation for at least two years;

- (c) If the facility was reconstructed during the maintenance period, it has been accepted by the Administrative Official;
- (d) The facility as designed and constructed conforms to the provisions of this Chapter;
- (e) All easements and tracts required under this Chapter entitling the County to operate and maintain the facility have been conveyed to Skagit County and have been recorded with the Skagit County Auditor;
- (f) An operation and maintenance manual including a maintenance schedule has been submitted to and accepted by Skagit County; and
- (g) The applicant has provided to Skagit County a complete and accurate set of reproducible as-built record drawings stamped and certified as accurate by a qualified professional and accompanied by an approved maintenance plan.

**14.32.100 Operation and maintenance.**

- (1) Maintenance required.
  - (a) Owners and operators of stormwater facilities must operate and maintain those facilities to ensure the performance achieves their intended purposes.
  - (b) Owners of property for which a stormwater BMP has been required by Skagit County must continually maintain that BMP.
  - (c) Maintenance must be performed consistent with the conditions of approval and the approved maintenance plan. Unless a more restrictive provision applies, when an inspection identifies an exceedance of the maintenance standard, the owner must perform maintenance:
    - (i) within 12 months for typical maintenance of facilities, except catch basins;
    - (ii) within 6 months for catch basins;
    - (iii) within 24 months for maintenance that requires capital construction of less than \$25,000.
- (2) Maintenance plan required.
  - (a) Prior to the use of a stormwater facility required by this Chapter, the owner must:
    - (i) Ensure a complete initial evaluation of the stormwater facility system components and property by a qualified professional to determine functionality, maintenance needs, and compliance with this Chapter and any permits. The property owner must submit the signed and stamped engineer's evaluation to the Administrative Official for approval.
    - (ii) provide to Skagit County a complete and accurate set of reproducible as-built record drawings stamped and certified as accurate by a qualified professional;
    - (iii) obtain approval from the Administrative Official for a maintenance plan;
    - (iv) record the approved maintenance plan with the County Auditor against the title of all properties using the stormwater facility.



- (b) The maintenance plan must:
    - (i) address how all of the elements of the stormwater facility will be maintained;
    - (ii) include the schedule for ongoing maintenance;
    - (iii) identify the responsible party for ongoing maintenance.
    - (iv) be consistent with Stormwater Management Manual, especially Volume V Chapter 4.
  - (c) The maintenance plan remains in force for the life of the development or until the County approves a new or amended maintenance plan for the development's stormwater facilities.
  - (d) For LID facilities, the facility must be protected from all of the following:
    - (i) cover by structures or impervious material;
    - (ii) soil compaction, for example by vehicular traffic or livestock;
    - (iii) damage by soil removal and grade alteration;
    - (iv) conversion to another use.
- (3) Inspections of Stormwater Facilities.
- (a) Where a stormwater facility is required by this Chapter, the applicant must dedicate an easement to the County for access and inspection consistent with this Chapter and during normal business hours, and when inspectors provide advance notice. The Administrative Official may waive this requirement for small facilities that do not require inspection or can be effectively inspected without an access easement.
  - (b) Inside the NPDES Permit Area, County inspection of stormwater facilities is required at least annually, or less frequently if allowed by the County's NPDES Permit.
  - (c) Outside the NPDES Permit Area, the Administrative Official is authorized to develop an inspection program, including requirements for an inspection and maintenance schedule, to determine if stormwater facilities are in good working order and are properly maintained, and to ensure that stormwater BMPs are in place and that non-point source pollution control is being implemented.
  - (d) Whenever there is cause to believe that a violation of this chapter has been or is being committed, the County may inspect per SCC Chapter 14.44, Enforcement and Penalties.

## Chapter 14.36 Public Works Standards

### 14.36.020 Stormwater

The construction of all stormwater ~~management~~ facilities ~~shall~~**must** comply with the requirements of the ~~Skagit County Drainage Code, Chapter 14.32 SCC~~[SCC Chapter 14.32, Stormwater Management](#), and the most recent version of the Skagit County Public Works Standards, adopted by Resolution of the Board of Skagit County Commissioners. [Where the two conflict, SCC Chapter 14.32 controls.](#)

## Chapter 14.44 Enforcement/Penalties

### 14.44.110 Policy.

- (1) The policy of Skagit County is to:
  - (a) *No change.*
  - (b) Conduct all investigations into alleged violations ~~of SCC Titles 14 and 15~~ consistent with statutory and constitutional protections of the right of privacy;
  - (c) *No change.*
  - (d) *No change.*

### 14.44.120 Violations defined—Joint and several liability.

- (1) A “violation” is a failure to comply with SCC Title 14, ~~or 15,~~ or 16, including failure to comply with a permit or an administrative order issued pursuant to SCC Title 14, ~~or 15,~~ or 16.
- (2) *No change.*
- (3) *No change.*
- (4) *No change.*
- (5) *No change.*

### 14.44.140 Enforcement and abatement authorized.

The Administrative Official may initiate enforcement consistent with this Chapter to correct any violation ~~of SCC Title 14 or 15~~, and abate any condition in violation ~~of SCC Title 14 or 15~~.

### 14.44.330 Civil Penalty

- (1) *No change.*
- (2) Amount of Civil Penalty.
  - (a) *No change.*
  - (b) For a violation of SCC Chapter 14.24 or of any of the terms or conditions of any critical area buffer or setback, easement, or other plat restriction or binding assurance, or of any mitigation plan, or contract or agreement concluded pursuant to SCC Chapter 14.24 or of the “do not harm” standard of SCC 14.24.120(3), or of ~~SCC 14.32.090~~ of the water pollution regulations in SCC Chapter 16.32, the Administrative Official may impose an additional civil penalty up to:
    - (i) – (ii) *No change.*
  - (c) *No change.*
  - (d) *No change.*
  - (e) *No change.*
- (3) *No change.*

- (4) *No change.*

#### **14.44.320 Civil infraction.**

- (1) In addition to or as an alternative to any other judicial or administrative remedy, a person who ~~violates SCC Titles 14 or 15, or any order issued pursuant to SCC Titles 14 or 15~~ [causes a violation](#), or by any act of commission or omission procures, aids, or abets such a violation, is subject to a class 1 civil infraction in accordance with RCW Chapter 7.80.
- (2) *No change.*

#### **14.44.330 Civil penalty.**

- (1) In addition to or as an alternative to any other judicial or administrative remedy, a person who ~~violates SCC Titles 14 or 15, or any order issued pursuant to SCC Titles 14 or 15~~ [causes a violation](#), or by any act of commission or omission procures, aids, or abets such a violation, may be subject to a civil penalty.
- (2) *No change.*
- (3) *No change.*
- (4) *No change.*

#### **14.44.340 Abatement**

- (1) *No change.*
- (2) For violations of SCC ~~14.32.090, Water Quality~~ [Chapter 16.32.010, Water Pollution](#), the Administrative Official may also:
- (a) Require implementation of BMPs described in the Stormwater ~~Design~~ [Management](#) Manual and, when necessary, AKART BMPs as described in RCW 90.48.010 and 90.48.520.
- (b) *No change.*
- (c) *No change.*
- (3) *No change.*
- (4) *No change.*

## **New Title 16 Environment**

### **New Chapter 16.32 Water Pollution**

#### **16.32.010 Purpose**

The purpose of this Chapter is to protect the County's surface and groundwater quality by controlling the discharge of pollutants and comply with the County's NPDES Permit.

#### **16.32.020 Definitions**

The definitions in SCC 14.04.020 apply to this Chapter and are incorporated by reference.

### **16.32.030 Illicit Discharges.**

- (1) Illicit discharges prohibited. No person may throw, drain, or otherwise discharge, cause or allow others under its control to throw, drain, or otherwise discharge into the stormwater system any materials other than stormwater.
- (2) Allowable discharges. The following types of discharges are not illicit discharges for the purpose of this Chapter unless the Administrative Official determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:
  - (a) Diverted stream flows.
  - (b) Rising groundwaters.
  - (c) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20).
  - (d) Uncontaminated pumped groundwater.
  - (e) Foundation drains.
  - (f) Air conditioning condensation.
  - (g) Irrigation water from agricultural sources that is commingled with urban stormwater.
  - (h) Springs.
  - (i) Water from crawl space pumps.
  - (j) Footing drains.
  - (k) Flows from riparian habitats and wetlands.
  - (l) Discharges from emergency firefighting activities.
- (3) Conditionally allowed discharges. The following types of discharges are not illicit discharges for the purposes of this Chapter if they meet the stated conditions, unless the Administrative Official determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater.
  - (a) Potable water, including water from water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges must be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system.
  - (b) Lawn watering and other irrigation runoff are permitted but must be minimized.
  - (c) De-chlorinated swimming pool discharges. These discharges must be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system. Discharges must be thermally controlled to prevent an increase in temperature of the receiving water.
  - (d) Street and sidewalk wash water, water to control dust and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water is minimized. At active construction sites, street sweeping must be performed prior to washing the street.

- (e) Other non-stormwater discharges. The discharges must be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the County which addresses control of such discharges by applying AKART to prevent pollutants from entering surface or groundwater.
- (4) Exemptions.
- (a) The following discharges are exempt from the provisions of this Section:
    - (i) The regulated effluent from any commercial or municipal facility holding a valid State or Federal wastewater discharge permit or NPDES stormwater permit.
    - (ii) Acts of God or nature not compounded by human negligence.
    - (iii) Properly operating on-site domestic sewage systems.
    - (iv) Discharges from agricultural activities that are compliant with SCC 14.24.120.
  - (b) A person does not commit an illicit discharge if:
    - (i) That person has properly designed, constructed, implemented and is maintaining BMPs and is carrying out AKART as required by SCC Chapter 14.32, even if pollutants continue to enter surface and stormwater or groundwater; or
    - (ii) That person can demonstrate that there are no additional pollutants being discharged from the site above the background conditions of the water entering the site.
- (5) Best Management Practices (BMPs).
- (a) Compliance with this Chapter must be achieved through the use of best management practices described in the Stormwater Management Manual or as described below.
  - (b) BMPs must be applied to any business or residential activity that might result in illicit discharges. In applying the Stormwater Management Manual, the Administrative Official must first require the implementation of source control BMPs. If these are not sufficient to prevent pollutants from entering stormwater, the Administrative Official may require implementation of treatment BMPs as set forth in AKART (all known, available, and reasonable methods of prevention and treatment technology).

**16.32.040 Illicit connections and uses.**

- (1) No person may use the stormwater system, directly or indirectly, to dispose of any solid or liquid matter other than stormwater.
- (2) No person may make, allow, use, or allow the continued existence of any connection to the stormwater system that could result in an illicit discharge.
- (3) Connections to the stormwater system from the interiors of structures are prohibited.
- (4) Connections to the stormwater system for any purpose other than to convey stormwater or groundwater are prohibited and must be eliminated.

**16.32.050 Inspection and enforcement.**

The Administrative Official is authorized to carry out inspection and enforcement actions pursuant to SCC Chapter 14.44, Enforcement/Penalties.

**Attachment B**  
**Skagit County Planning Commission's Recorded Motion Regarding the  
Stormwater Code Update**

<b>Proposal publish date:</b>	June 11, 2015
<b>Proposal name:</b>	Stormwater Code Update
<b>Documents available at:</b>	<a href="http://www.skagitcounty.net/planning">www.skagitcounty.net/planning</a>
<b>Public hearing body:</b>	Skagit County Planning Commission
<b>Public hearing date:</b>	Tuesday, July 7, 2015, at 6 p.m.
<b>Written comment deadline:</b>	Thursday, July 9, 2015, at 4:30 p.m.
<b>PC deliberations:</b>	Tuesday, July 21, 2015

After considering the written and spoken comments and considering the record before it, the Planning Commission enters the following findings of fact, reasons for action, and recommendations to the Board of County Commissioners.

**Findings of Fact and Reasons for Action**

1. Effective management of stormwater from development is important for the protection of septic systems, wells, neighboring and downstream property owners, and the environment.
2. Controls on both water quantity and water quality are key to effective stormwater management.
3. Onsite stormwater management reduces the strain on the County's stormwater system and preserves system capacity.
4. Low-Impact Development techniques are intended to mimic natural processes and are effective means to manage stormwater quantity and quality where appropriate.
5. Stormwater infiltration helps preserve groundwater supplies and stream flows.
6. The Ecology 2013 Western Washington Phase II National Pollution Discharge Elimination System (NPDES) permit requires the County to update its development regulations to use the 2012 Ecology Stormwater Manual and to require Low-Impact Development techniques, where feasible, inside the NPDES permit area.
7. Where both landscaping and LID facilities are required, property owners should be able to combine the requirements.
8. Stormwater management requirements should be balanced with economic practicality and feasibility.

9. Outside the NPDES permit area, development should have incrementally increased stormwater management requirements based on the intensity of the land use.
10. The entire existing drainage code chapter, as it applies inside and outside the NPDES permit area, will benefit from the proposed reorganization and rewriting which will make application of the code clearer and easier.
11. Easements for access and inspection may be appropriate for larger developments (e.g. subdivisions, commercial developments) but raise issues of property rights, privacy, and unknown expectations and execution of inspections for single-family residences especially in the light of possible future expansion of the NPDES Permit Area.

### **Recommendation**

The Planning Commission recommends that the Board of County Commissioners **approve** the proposal with the following changes:

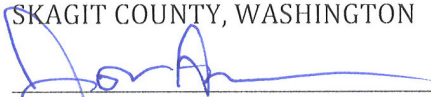
1. Rewrite the definition of “effective impervious surface” to avoid using the word “ineffective,” or consider deleting “effective impervious surface” throughout the proposal and replacing it with “hard surface” or another term that makes more sense, consistent with the Stormwater Manual and the NPDES Permit.
2. Rewrite 14.16.830(2)(c) to make it clear that LID stormwater facilities can be used as credit for landscaping requirements where they would meet all or a portion of the landscaping requirements.
3. Add “(MR)” to the column header in table 14.32.040-1 for clarity.
4. Move the first sentence in 14.32.080(2)(b) to new 14.32.080(1)(d). Add “Runoff from development may not cause a significant adverse impact to downgradient properties.”
5. Strike 14.32.100(3)(a) requiring easements for access and inspection. Find other options for obtaining legal authority to inspect and enforce maintenance standards for private stormwater facilities. Explore what other jurisdictions are using.
6. Add a line to the stormwater code as a note for later development review (that does not require septic permits) to ensure sheet flows or infiltration is directed away from septic drain fields.



**This recorded motion approved July 21, 2015:**

<b>Commission Vote</b>	<b>Support</b>	<b>Oppose</b>	<b>Absent</b>	<b>Abstain</b>
Josh Axthelm, Chair	✓			
Keith Greenwood, Vice Chair	✓			
Amy Hughes	✓			
Annie Lohman	✓			
Kathy Mitchell	✓			
Kevin Meenaghan	✓			
Tammy Candler	✓			
vacant			✓	
vacant			✓	
<b>Total</b>	<b>7</b>	<b>0</b>	<b>2</b>	<b>0</b>

SKAGIT COUNTY PLANNING COMMISSION  
SKAGIT COUNTY, WASHINGTON

  
\_\_\_\_\_  
Josh Axthelm, Chair

7/21/2015  
Date

  
\_\_\_\_\_  
Dale Pernula, Secretary

7/21/15  
Date